



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
September 15, 2005

MINUTES – SPECIAL MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Earl Tilly, Chair
Bill Brumsickle, Secretary
Michael Connelly, Member
Ken Schellberg, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Doug Ellis, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Senior Counsel
Linda Dalton, Sr. Asst. Attorney General
Chip Beatty, Secretary

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Earl Tilly at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Schellberg stated that he had attended the brief enforcement hearing on September 14, 2005. He outlined various press articles where late filers said that the penalties levied were a hardship. He suggested the Commission consider changing its process so that after imposition of a penalty, if a person is unable to pay, he or she would be allowed to file an affidavit to that effect in lieu of paying the fine.

Commissioner Connelly pointed out that these filers had opportunities to avoid fines by timely filing or responding to the warning notice.

Citizens Comments/ Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 06-07

Moved by Commissioner Brumsickle, seconded by Commissioner Schellberg:

The Commission adopts the minutes of June 9, June 23, July 26, and August 11, 2005, as written.

The motion passed unanimously.

Rule Making

Doug Ellis briefly summarized possible amendments to WAC 390-05-400, Changes in Dollar Amounts, WAC 390-37-136, Production of Documents, WAC 390-12-010, Public Disclosure Commission – Regular Meetings, and new rules implementing chapter 445, 2005 laws (ESSB 5034 Electioneering Communications).

Motion 06-08

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission authorizes staff to proceed with developing draft language for this rule making activity.

The motion passed unanimously.

Legislation

Representative Jim Moeller addressed the Commission about developing a new electronic filing system for lobbyist and lobbyist employers in order to promote increased transparency of lobbyist expenditures. He said the first step is to secure \$100,000 for a comprehensive feasibility study of such a system.

Motion 06-09

Moved by Commissioner Brumsickle, seconded by Commissioner Connelly:

The Commission supports a \$100,000 supplemental appropriation request for a feasibility study of costs associated with designing and implementing a new electronic filing system for lobbyists and lobbyist employers.

The motion passed unanimously.

Vicki Rippie discussed possible agency request legislation concerning the Commission's penalty authority and the citizen action complaint process.

The existing maximum civil penalties of \$1000 for a single violation and \$2500 for multiple violations of the Public Disclosure Act were established in 1985 and have not been adjusted for inflation.

The citizen action complaint process currently allows the state a total of 55 calendar days to act on the complaint before the complainant may initiate legal action in the name of the state. This short amount of time makes it difficult to complete all aspects of the process within the time allowed.

Alex Boler of the Evergreen Freedom Foundation stated that the increase in penalties is long overdue. He further stated that he was opposed to lengthening the time for the citizen action complaints.

Rick Forcier of the Christian Coalition of Washington stated that he was in support of adjusting the penalties for inflation and believed it was long overdue. He was opposed to changing the citizen action complaint process. He suggested the two matters, penalty authority and citizen action complaint process, be pursued as separate bills so his group could support one and oppose the other.

Commissioner Connelly commented that citizen action complaints require an interesting balance between a quick answer and an accurate, complete answer.

Commissioner Tilly stated that he believed 45 business days was a reasonable compromise between 45 calendar days and 60 business days, and was of the opinion that two bills should be introduced.

Motion 06-010

Moved by Commissioner Connelly, seconded by Commissioner Brumsickle:

The Commission pursues:

1) A bill that would change the Commission's maximum penalty to \$1700 for a single violation

and \$4200 for multiple violations with biennial adjustments for inflation, and

2) A separate bill that would change the timelines in the citizen action complaint process to 45 business days and 10 business days for the second notice before legal action may be commenced by the complainant.

The motion passed unanimously.

2005-07 Strategic Plan Revisions

Vicki Rippie summarized the 2005-07 Strategic Plan revisions based on Commission comments at the July meeting.

Electronic Filing Waiver Requests

Joe Day, treasurer for Dennis Faker, 2005 Candidate for Tacoma City Council

Kurt Young reported that Dennis Faker requested a waiver from filing reports electronically.

Motion 06-011

Moved by Commissioner Connelly, seconded by Commissioner Brumsickle:

The Commission grants an extension to Dennis Faker to comply with the electronic filing requirement until October 3, 2005.

The motion passed unanimously.

Joann Schaffer, deputy treasurer for Darlene Kordonowy, 2005 Candidate for Bainbridge Island Mayor.

Kurt Young reported that Darlene Kordonowy requests a temporary exemption from electronic filing while the treasurer is away on emergency family business.

Vicki Rippie commented that the circumstances at issue may not satisfy the statutory requirements for an exemption.

Motion 06-012

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission denies the request of Darlene Kordonowy and directs staff to make all efforts to accommodate the special circumstances prompting the request.

The motion passed unanimously.

Reporting Modifications
New

Reuven M. Carlyle, a Community and Technical College Board member

Kurt Young reported that Mr. Carlyle requests an exemption from reporting the business customers of Twisted Pair Solutions, Inc. and AirSage Inc., companies of which he is a board member.

Motion 06-013

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission grants Reuven M. Carlyle a partial reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Jayasri Guha, Information Services Board member

Mr. Young reported that Ms. Guha requests an exemption from reporting the business customers of Weyerhaeuser Company and Weyerhaeuser Real Estate Company, corporations of which she is an officer.

Motion 06-014

Moved by Commissioner Schellberg, seconded by Commissioner Connelly:

The Commission grants Jayasri Guha a partial reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Bonnie Mackey, 2005 Candidate for Shoreline City Council

Mr. Young reported that Bonnie Mackey requests an exemption from reporting the business customers of a) Evergreen Power Systems of which her spouse is president; b) NetVersant Solutions, Inc. of which her spouse is a director; c) Puget Sound Electrical

Workers Pension Trust of which her spouse is a trustee; d) National Electrical Contractors Association of which her spouse is a district vice-president; e) Electric 21 Foundation of which her spouse is a trustee; and f) National Electrical Benefit Fund of which her spouse is a trustee.

Motion 06-015

Moved by Commissioner Connelly, seconded by Commission Brumsickle:

The Commission grants Bonnie Mackey a partial reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Francois X. Forgette, a
Washington State University
Regent*

Mr. Young reported that Mr. Forgette requests an exemption from reporting the business customers of a) Rettig, Osborne & Forgette, LLP, a law firm of which he is a partner; b) Shumate, Inc., a business of which he is a partner; c) Tri-City Industrial Development Council, a non-profit entity of which he is Chairman of the board; and d) Tri-City Visitors and Convention Bureau, a non-profit organization of which he is a board member.

Motion 06-016

Moved by Commissioner Brumsickle, seconded by Commissioner Connelly:

The Commission grants Francois X. Forgette a partial reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Mark Varljen, a 2005 Candidate for
Coupeville School Board*

Mr. Young reported that Mr. Varljen requests an exemption from reporting the business customers of SCS Engineers, a business of which he is vice-president.

Motion 06-017

Moved by Commissioner Schellberg, seconded by Commissioner Brumsickle:

The Commission grants Mark Varljen a partial reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Merilla Hopkins, a 2005 Candidate
for Davenport School Board*

Mr. Young reported that Ms. Hopkins requests an exemption from reporting the business customers of Langenhorst, Norwood and Hopkins, a business of which her spouse has an ownership interest.

Motion 06-018

Moved by Commissioner Brumsickle, seconded by Commissioner Schellberg:

The Commission grants Merilla Hopkins a partial reporting modification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Enforcement Matters

Reconsiderations

Phillip DeLeo, Case #05-249

Kurt Young reported that a brief enforcement hearing was held on June 23, 2005 in which Phillip DeLeo was found in violation of RCW 42.17.240 for failing to timely file a statement of personal financial affairs and was assessed a \$300 civil penalty.

Mr. DeLeo provided a letter which stated that there was a death in his family in April, that he had attempted to file electronically but may not have submitted it correctly, and that he was out of the country when the warning and hearing notices were mailed.

Motion 06-019

Moved by Commissioner Connelly, seconded by Commissioner Brumsickle:

The Commission reconsiders PDC Case #05-249, Phillip DeLeo.

The motion passed unanimously.

Motion 06-020

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission vacates the order in PDC Case #05-249, Phillip DeLeo.

The motion passed unanimously.

Julie Hill, Case #05-286

Mr. Young reported that a brief enforcement hearing was held on June 23, 2005 in which Julie Hill was found in violation of RCW 42.17.240 for failing to timely file a statement of personal financial affairs and was assessed a \$100 civil penalty.

Ms. Hill provided a letter which stated that she had attempted to file electronically and when the warning letter had arrived, she neglected to open it thinking it was a confirmation of her filing. The letter further stated that she had not received the hearing notice. She believed that because the mistakes were unintentional, the penalty should be revoked.

There was no motion to reconsider this matter.

Leona Adams, Case #05-212

Mr. Young reported that a brief enforcement hearing was held on June 23, 2005 in which Leona Adams was found in violation of RCW 42.17.240 for failing to timely file a statement of personal financial affairs and was assessed a \$100 civil penalty.

Ms. Adams participated by phone. She stated that she had not received any notices and that it was possible that they had been sent to her old address.

There was no motion to reconsider this matter.

Gregory Barnes, Case #05-219

Mr. Young reported that a brief enforcement hearing was held on June 23, 2005 in which Gregory Barnes was found in violation of RCW 42.17.240 for failing to timely file a statement of personal financial affairs and was assessed a \$400 civil penalty.

Mr. Barnes provided a letter and participated by phone. He stated that he had health issues which required surgery and he was convalescing during the time that his filing was due. At that time he was undergoing physical rehabilitation five days a week. He stated he had filed late but prior to the original hearing.

Motion 06-021

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission reconsiders PDC Case #05-219, Gregory Barnes.

The motion passed unanimously.

Motion 06-022

Moved by Commissioner Connelly, seconded by Commissioner Schellberg.

In the PDC Case #05-219, Gregory Barnes, the Commission suspends \$200 of the \$400 fine on the condition that Mr. Barnes enters into a payment plan and timely files for the remainder of his term.

Voting For: Commissioners Brumsickle, Connelly and Schellberg.

Voting Against: Commissioner Tilly.

The motion passed.

Kory Heindselman, Case #05-283

Mr. Young reported that a brief enforcement hearing was held on June 23, 2005 in which Kory Heindselman was found in violation of RCW 42.17.240

for failing to timely file a statement of personal financial affairs and was assessed a \$100 civil penalty.

Mr. Heindselman provided a letter and participated by phone. He stated that he had moved and did not receive the warning letter or hearing notice because they were sent to the incorrect address. He had contacted staff with his new address but it was not updated.

Motion 06-023

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission reconsiders PDC Case #05-283, Kory Heindselman.

The motion passed unanimously.

Motion 06-024

Moved by Commissioner Connelly, seconded by Commissioner Brumsickle.

The Commission vacates the order in PDC Case #05-283, Kory Heindselman.

The motion passed unanimously.

Hearings:

Charles Alexander, Case #06-009

Phil Stutzman summarized the case against Charles Alexander for an alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs by April 15, 2005. He noted that Mr. Alexander has had one prior stipulation and two prior brief enforcement hearings. The F1 has not been filed.

Motion 06-025

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

In PDC Case # 06-009, Charles Alexander, the Commission finds a violation of RCW 42.17.240 and assesses a penalty of \$1000 with \$250 suspended based on the condition that the 2005 Financial Affairs Statement and penalty payment are received within 30 days from the date of the order and that there are no further violations for a period of two years.

The motion passed unanimously.

Dan Roseburg, Case #06-013

Mr. Stutzman summarized the case against Dan Roseburg for an alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs by April 15, 2005. He noted that Mr. Roseburg has had three prior brief enforcement hearings. The F1 has been filed.

Motion 06-026

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

In PDC Case # 06-013, Dan Roseburg, the Commission finds a violation of RCW 42.17.240 and assesses a penalty of \$750 with \$250 suspended based on the condition that there are no further violations for a period of two years.

The motion passed unanimously.

Kip Calaway, Case #06-010

Mr. Stutzman summarized the case against Kip Calaway for an alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs by April 15, 2005. He noted that Mr. Calaway has had one prior stipulation and two prior brief enforcement hearings. The F1 has been filed.

Motion 06-027

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

In PDC Case # 06-013, Kip Calaway, the Commission finds a violation of RCW 42.17.240 and assesses a penalty of \$750 with \$250 suspended based on the condition that there are no further violations for a period of two years.

The motion passed unanimously.

Antoni Froehling, Case #06-011

Mr. Stutzman summarized the case against Antoni Froehling for an alleged violation of RCW 42.17.240 by failing to timely file the Statement of Financial Affairs by April 15, 2005. He noted that Mr. Froehling has had three prior brief enforcement hearings. The F1 has been filed. He also has an outstanding penalty in the amount of \$400.

Motion 06-028

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

In PDC Case # 06-011, Antoni Froehling, the Commission finds a violation of RCW 42.17.240 and assesses a penalty of \$750 with \$250 suspended based on the condition that the non-suspended portion of the penalty as well as the outstanding \$400 penalty from 2004 be paid within 30 days from the date of the order.

The motion passed unanimously.

Staff Reports

Executive Director

Vicki Rippie reported that FY06-07 budget allotments have been submitted and the Commission will receive an FY06 budget status report at the October meeting.

She also said that Chip Beatty was hired as the new confidential secretary, the office refurbishing starts next weekend and that Michael Smith did a great job with the IT portfolio project.

Assistant Director

Doug Ellis reported on GMAP performance measures noting that soon there will be a demonstration for the Commission. He said that for August there were 3,286 customers who called, 145 incoming emails to reception staff and 97 walk-in customers.

Kami Madsen, PDC's new customer service person, and Bruce Marvin, Assistant Attorney General, were introduced to the Commission.

Chief Technology Officer

Michael Smith reported that the ORCA project beta testing is underway and Lori Anderson is doing a very good job keeping in contact with the testers.

He noted that the agency has a new connection to the Internet that is faster and will allow staff to stream training videos.

Public Comment regarding AGO 2005 No. 4 relating to "elected legislative body" as that term is used in RCW 42.17.130

Senior Counsel Nancy Krier outlined the AGO opinion. She noted that the PDC staff had previously held a stakeholder meeting where various organizations came forward with concerns.

Joe Daniels with the Washington State Association of Sewer and Water Districts commented that the association would appreciate a response to the question raised in a recent letter to the Commission regarding the applicability of RCW 42.17.130(3).

Dave Warren representing Washington PUD Association asked that the Commission reconsider its position on AGO 2005 No. 4.

Commissioner Connelly stated that this interpretation is a difficult one for the Commission because it is different from what people had understood the law to be in the past. Since it was issued by the State Attorney General as an official opinion, it is prudent that the Commission adhere to that opinion.

Executive Session

The Commission went into executive session at 2:15 p.m. to discuss pending and potential litigation with legal counsel.

Public Session

The Commission returned to public session at 2:59 p.m.

Motion 06-029

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

The Commission recommends that the Attorney General appeal the decision of the Court of Appeals in Rickert v Public Disclosure Commission to the Washington State Supreme Court.

The motion passed unanimously.

Moved by Commissioner Connelly, seconded by Commissioner Schellberg:

Motion 06-030

The Commission directs PDC staff to suspend further investigation of cases implicating RCW 42.17.530(1)(a).

The motioned passed unanimously.

Adjournment

Chair Tilly adjourned the meeting at 3:05 p.m. The next meeting is scheduled for Thursday, October 27, 2005.

Approved by the Commission 10/27/05